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49 CFR Ch. X (10–1–00 Edition)

upon which the action taken is made public or any decision or order adopted is served, in a public reading room or other easily accessible place within the Board, or upon written request to the Secretary of the Board.

[42 FR 13796, Mar. 11, 1977, as amended at 64 FR 53266, 53267, Oct. 1, 1999]

§ 1012.2 Time and place of meetings.

(a) Conferences, oral arguments, and other meetings are held at the Board's offices located at 1925 K Street, NW, Washington, DC, unless advance notice of an alternative site is given. Room assignments will be posted at the Board on the day of the meeting.

(b) Regular Board conferences are held on the first and third Tuesdays of each month, or on the following day if the regular conference day is a holiday. Oral arguments before the Board are normally scheduled on the first or third Wednesday of each month. Regular Board conferences and oral arguments before the Board normally begin at 9:30 a.m. A luncheon recess is taken at approximately noon, and other recesses may be called by the presiding officer. Times for reconvening following a recess, or on subsequent days if a conference or oral argument lasts more than one day, are set by the presiding officer at the time the recess is announced.

(c) Special Board conferences or oral arguments are scheduled by the Chairman of the Board.

(d) If one or more portions of the same meeting are open to the public while another portion or other portions are closed, all those portions of the meeting which are open to the public are scheduled at the beginning of the meeting agenda, and are followed by those portions which are closed.

[42 FR 13796, Mar. 11, 1977, as amended at 64 FR 53267, Oct. 1, 1999]

§ 1012.3 Public notice.

(a) Unless a majority of the Board determines that such information is exempt from disclosure under the Act, public notice of the scheduling of a meeting will be given by filing a copy of the notice with the Secretary of the Board for posting and for service on all parties of record in any proceeding

which is the subject of the meeting or any other person who has requested notice with respect to meetings of the Board, and by submitting a copy of the notice for publication in the FEDERAL REGISTER.

(b) Public notice of a scheduled meeting will contain:

(1) The date, time, place, and subject matter of the meeting.

(2) Whether it is open to the public.

(3) If the meeting or any portion of the meeting is not open to the public, an explanation of the action taken in closing the meeting or portion of the meeting, together with a list of those expected to attend the meeting and their affiliations.

(4) If a vote is taken on the question of whether to close a meeting or a portion of a meeting to the public, a statement of the vote or position of each Board Member eligible to participate in that vote. If such a vote is taken, public notice of its result will be posted within one working day following completion of the voting. If the result of the vote is to close the meeting or a portion of the meeting, an explanation of that action will be included in the notice to be issued within one working day following completion of the voting. The public notice otherwise required by this subparagraph may be withheld if the Board finds that such information is exempt from disclosure under the Act.

(5) The name and telephone number of the Board official designated to respond to requests for information about the meeting. Unless otherwise specified, that official will be the Board's Public Information Officer, whose telephone number is (202) 275-7252.

(c) Except as provided in paragraphs (d) and (e) of this section, public notice will be given at least one week before the date upon which a meeting is scheduled.

(d) Due and timely execution of the Board's functions will not normally permit the giving of one week's public notice of meetings called to consider or determine whether to suspend or investigate a tariff or schedule under sections 15(7), 15(8), 215(g), 218(c), 307(g), 307(i), or 406(e) of the Interstate Commerce Act (49 U.S.C. 15(7), 15(8), 316(g),

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318(c), 907(g), 907(i), 1006(e)); to consider whether to grant special permission to deviate from tariff filing requirements under section 6(3), 217(c), 218(a), 306(d), 306(e), or 405(d) of the Interstate Commerce Act (49 U.S.C. 6(3), 317(c), 318(a), 906(d), 906(e), or 1005(d)); or to consider or dispose of an application for temporary authority under section 210a(a) or 311(a) of the Interstate Commerce Act (49 U.S.C. 310a(a) or 911(a)). Such meetings will normally be called on less than one week's notice, and public notice will be posted and published at the earliest practicable time.

(e) If a majority of the Board Members eligible to participate in the conduct or disposition of the matter which is the subject of a meeting determines, by recorded vote, that Board business requires that a meeting be called on less than one week's notice, the meeting may be called on short notice, and public notice will be posted and published at the earliest practicable time.

(f) Changes in the scheduling of a meeting which has been the subject of a public notice will also be made the subject of a public notice, which will be posted at the earliest practicable time. Changes in, or additions to a conference agenda or in the open or closed status of a meeting will be made only if a majority of the Board Members eligible to participate in the conduct or disposition of the matter which is the subject of the meeting determines, by recorded vote, that the Board's business requires such change and that no earlier announcement of the change was possible. In such a case, the public notice of the change, will show the vote of each Board Member on the change.

[42 FR 13796, Mar. 11, 1977, as amended at 64 FR 53267, Oct. 1, 1999]

§ 1012.4 Public participation.

(a) In the case of Board or Division conferences or meetings of committees of the public, members of the public will be admitted as observers only. Active participation, as by asking questions or attempting to participate in the discussion, will not be permitted, and anyone violating this proscription may be required to leave the meeting by the presiding officer.

(b) Oral arguments are always open to the public. The scheduling of participants in the arguments and the allotment of time is governed by 49 CFR part 1116.

[42 FR 13796, Mar. 11, 1977, as amended at 47 FR 49596 and 49597, Nov. 1, 1982; 47 FR 54083, Dec. 1, 1982; 47 FR 55686, Dec. 13, 1982; 57 FR 44135, Sept. 24, 1992]

§ 1012.5 Transcripts; minutes.

(a) A verbatim transcript, sound recording or minutes will be made of all meetings closed to the public under these regulation, and will be retained by the Board for two years following the date upon which the meeting ended, or until one year after the conclusion of any proceeding with respect to which the meeting was held, whichever occurs later. In the case of meetings closed to the public under § 1012.7(d) (1) through (7) and (9) of this part, a transcript or recording rather than minutes will be made and retained.

(b) The Board will make available free of charge, upon request, in a public reading room or some other easily accessible place, the minutes, transcript or recording of all portions of any meeting which was closed to the public except those portions which it finds to be properly exempt from disclosure under the Act. A copy of such minutes, transcript or recording will be provided, upon request, upon payment of fees as provided in part 1002 of this chapter.

(c) In the case of all meetings closed to the public, the presiding officer shall cause to be made, and the Board shall retain, a statement setting forth:

(1) The date, time, and place of the meeting.

(2) The names and affiliations of those attending.

(3) The subject matter.

(4) The action taken.

(5) A copy of the certification issued by the General Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public.

§ 1012.6 Petitions seeking to open or close a meeting.

(a) The Board will entertain petitions requesting either the opening of a meeting proposed to be closed to the